

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**IN RE METHYL TERTIARY BUTYL ETHER  
PRODUCTS LIABILITY LITIGATION**

Master File No. 1:00-1898  
MDL 1358 (SAS)

**This Document Relates To:**

The Honorable Shira A. Scheindlin

*City of Fresno v. Chevron U.S.A. Inc., et al.*  
Case No. 04 Civ. 04973 (SAS)

**CERTAIN DEFENDANTS' NOTICE OF MOTION AND MOTION FOR PARTIAL  
SUMMARY JUDGMENT ON PLAINTIFF'S NUISANCE CLAIMS**

PLEASE TAKE NOTICE that the Defendants identified on Attachment A (collectively, "Defendants") hereby move this Court, pursuant to Federal Rule of Civil Procedure 56, for an Order granting partial summary judgment on Plaintiff the City of Fresno's (the "City") nuisance claims against Defendants at the following stations:

| <b>Station Name and Address</b>                | <b>Moving Defendant(s)</b>  |
|--|---|
| Van Ness Auto, 2740 North Van Ness             | Chevron U.S.A. Inc.   |
| M & S Texaco, 2619 S. East Avenue              | Shell Defendants  |
| "Exxon" Service Station, 4594 E. Tulare Street | Valero Marketing and Supply Company ("VMSC"), Valero Refining Company—California ("VRC-CA") |
| Valley Gas, 2139 South Elm Street              | VMSC, VRC-CA  |
| Beacon #3519, 4591 E. Belmont Avenue           | VMSC, VRC-CA  |
| Beacon-Arco #615, 1625 Chestnut Avenue         | VMSC, VRC-CA  |

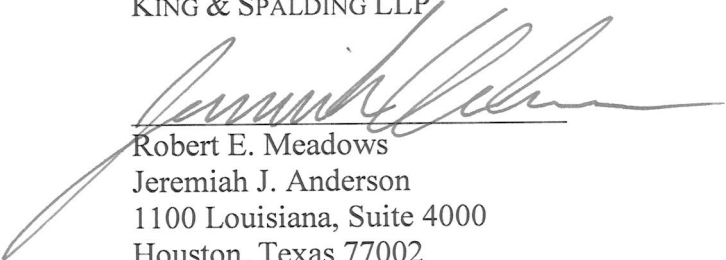
This Motion is brought on the ground that the City lacks evidence demonstrating that Defendants took “affirmative acts” that created or assisted in creating a nuisance at the above-listed stations, as required under California law.

This Motion is and will be based upon the Memorandum in support thereof and accompanying materials to be filed with the Court, this Notice and Motion, the pleadings and other documents on file in this action and other actions pending in the MDL, and such other argument and evidence as the Court may consider at any hearing of the Motion.

Dated: March 15, 2013

Respectfully submitted,

KING & SPALDING LLP<sup>1</sup>



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***Attorneys for Defendants  
Chevron U.S.A. Inc. and Union Oil  
Company of California***

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<sup>1</sup> The Defendants on Attachment A have joined in filing Certain Defendants’ Motion for Partial Summary Judgment on Plaintiffs’ Nuisance Claims.

ATTACHMENT A—DEFENDANTS JOINING MOTION

CHEVRON U.S.A. INC.

SHELL OIL COMPANY

TEXACO REFINING AND MARKETING INC.

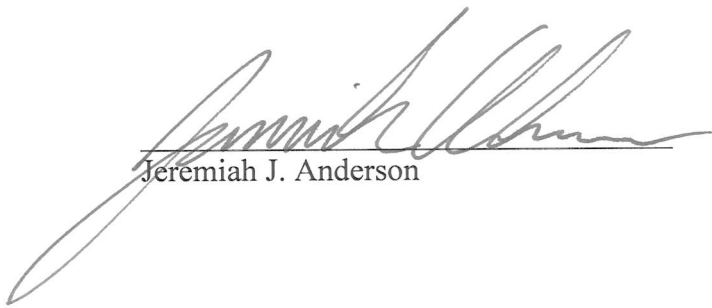
EQUILON ENTERPRISES LLC

VALERO MARKETING AND SUPPLY COMPANY

VALERO REFINING COMPANY-CALIFORNIA

**CERTIFICATE OF SERVICE**

I hereby certify that on the 15th day of March 2013, a true, correct, and exact copy of the foregoing document was served on all counsel via LexisNexis File & Serve.



Jeremiah J. Anderson